

REMARKS/ARGUMENTS

The Examiner is thanked for the performance of a thorough search.

By this amendment, Claims 1, 9, 19-30, and 38 have been amended. Claims 48-51 have been added. No claims have been canceled. Hence, Claims 1-51 are pending in the application.

SUMMARY OF THE REJECTIONS

Claims 1-4, 6-8, 15-17, 19, 21-23, 29-33, 35-37, and 44-46 were rejected under 35 U.S.C. § 102(e) as being unpatentable, allegedly, over U.S. Patent No. 6,230,325 to Iinuma et al. (“Iinuma”).

Claims 9, 10, 18, 38, 39, and 47 were rejected under 35 U.S.C. § 103(a) as being unpatentable, allegedly, over Iinuma.

Claims 5, 11-14, 20, 24-28, 34, 40-43, and 47 were rejected under 35 U.S.C. § 103(a) as being unpatentable, allegedly, over Iinuma in view of U.S. Patent Application Publication No. 2004/0117831 to Ellis et al. (“Ellis”).

The rejections are traversed for at least the reasons discussed below.

CLAIM REJECTIONS—35 U.S.C. § 102

Claims 1-4, 6-8, 15-17, 30-33, 35-37, and 44-46

As amended, Claim 1 recites the step of “transmitting, for playback by said member, said program file **over a computer network** to said member as streaming media with said streaming media tool.” Iinuma does not disclose such a step.

Iinuma is generally concerned with broadcasting signals, but not with transmitting program files over a computer network. Iinuma's FIG. 1 shows how broadcasting center 400 has a device for wirelessly transmitting a television signal (the alleged "program file"), and how user terminal 100 has an antenna for receiving such a wirelessly transmitted signal. In col. 4, lines 65-67, Iinuma indicates that transmission section 400b in broadcasting center 400 broadcasts a program by "wireless or by cable." This kind of broadcasting is the traditional kind of television broadcasting, which does not employ a computer network to carry a signal or program file.

Although Iinuma's FIG. 1 shows a network 500 and a network 200, and Iinuma indicates that these networks may be a part of the Internet, these networks are **not** used to transmit a television program from broadcasting center 400 to user terminal 100. Broadcasting center 400 communicates with database center 300 via network 500, and database center 300 communicates with user terminal 100 via network 200. However, there is no teaching or suggestion in Iinuma that broadcasting center 400 uses networks 200 and 500 to communicate with user terminal 100.

With reference to FIGs 10(b) and 10(c), Iinuma gives an example of the kind of information that database center 300 and user terminal 100 exchange over network 200. Database center 300 sends, to user terminal 100, a textual interface through which the user can select a commodity, select a payment, and submit a credit card number. This textual interface is not a television program, nor is it a "program file" as recited in Claim 1. Database center 300 does **not** transmit a program file to user terminal 100 over network 200. The television programs that user terminal 100 receives from broadcasting center 400 are **not** transmitted via networks 200 and 500.

Indeed, Iinuma does not even teach or suggest that broadcasting center 400 ever sends a television program (the alleged “program file”) to database center 300. Apparently, the television programs that broadcasting center 400 broadcasts to user terminal 100 are never stored within database center 300.

Because Iinuma’s approach is concerned with an entirely different kind of broadcasting than the “network” broadcasting performed by the method of Claim 1, Iinuma’s approach cannot be used to address the “network” broadcasting problems which are described in the Background section of the application.

Thus, Iinuma does not disclose the step of “transmitting, for playback by said member, said program file **over a computer network** to said member as streaming media with said streaming media tool” as recited in Claim 1. For at least the above reasons, Claim 1 is patentable over Iinuma under 35 U.S.C. § 102(e).

Claim 30 recites a computer-readable medium that carries instructions for performing the method of Claim 1. Therefore, Claim 30 is also patentable over Iinuma under 35 U.S.C. § 102(e).

By virtue of their dependence from Claim 1, Claims 2-4, 6-8, and 15-17 inherit the features distinguished from Iinuma. By virtue of their dependence from Claim 30, Claims 31-33, 35-37, and 44-46 inherit the features distinguished from Iinuma. Therefore, Claims 2-4, 6-8, 15-17, 31-33, 35-37, and 44-46 are also patentable over Iinuma under 35 U.S.C. § 102(e).

Claims 19, 21-23, and 29

Among other features, Claim 19, as amended, recites “means for said member transmitting a request to receive a program file to said server over said uplink channel by: . . .

ii) transmitting a request to view said selected program file over said uplink” and “means for said server transmitting said selected program file to said member over said downlink channel as streaming media, by: . . . i) receiving a request to view said selected program file from said member.” Iinuma does not disclose such steps.

Although Iinuma’s user terminal 100 provides mechanisms through which a user can tune in to a desired channel and view a television program broadcast by broadcasting center 400, user terminal 100 **never transmits a request** to broadcasting center 400. Conversely, broadcasting center 400 **never receives a request** from user terminal 100.

Although user terminal 100 may send information to database center 300, the information that user terminal 100 sends to database center 300 **is not a request to view a selected program**. Conversely, the information that database center 300 sends to user terminal 100 **is not a request to view a selected program**. As is discussed above, there is no teaching or suggestion in Iinuma that television programs are stored within database center 300. Broadcasting center 400 transmits television programs to user terminal 100, and user terminal 100 receives those programs, without the involvement of database center 300. Therefore, there is no reason why user terminal 100 would send, to database center 300, a request to view a selected program. There is similarly no reason why database center 300 would receive such a request from user terminal 100.

Thus, Iinuma does not disclose “means for said member transmitting a request to receive a program file to said server over said uplink channel by: . . . ii) transmitting a request to view said selected program file over said uplink” and “means for said server transmitting said selected program file to said member over said downlink channel as streaming media, by: . . . i) receiving a request to view said selected program file from said member” as recited

in Claim 19. For at least the above reasons, Claim 19 is patentable over Iinuma under 35 U.S.C. § 102(e).

By virtue of their dependence from Claim 19, Claims 21-23 and 29 inherit the features distinguished from Iinuma. Therefore, Claims 21-23 and 29 are also patentable over Iinuma under 35 U.S.C. § 102(e).

CLAIM REJECTIONS—35 U.S.C. § 103

By virtue of their dependence from Claim 1, Claims 5, 9-14, and 18 inherit the features distinguished from Iinuma. By virtue of their dependence from Claim 19, Claims 20 and 24-28 inherit the features distinguished from Iinuma. By virtue of their dependence from Claim 30, Claims 34, 38-43, and 47 inherit the features distinguished from Iinuma.

Ellis also does not disclose these distinguished features. The Office Action does not even allege that Ellis discloses these distinguished features. The Office Action relies on Ellis only to disclose, allegedly, features other than those distinguished from Iinuma above.

Therefore, even if Iinuma and Ellis could be combined, the combination still would not disclose, teach, or suggest the distinguished features discussed above in relation to Claims 1, 19, and 30. Consequently, Claims 5, 9-14, 18, 20, 24-28, 34, 38-43, and 47 are patentable over Iinuma and Ellis, taken individually or in combination, under 35 U.S.C. § 103(a).

Additionally, the steps “Officially Noticed” in the Office Action as being notoriously well known were **not** notoriously well known at the time that the application was filed. These “Official Notices” amount to nothing more than bald and unsupported assertions. Even assuming that these steps are known today, the Office Action has adduced **no evidence** and provided **no reasoning** to support the notion that these steps were notoriously well

known at the time that the application was filed. In accordance with MPEP 2144.03, Applicants **challenge** all of the "Official Notices" as **not** being **properly noticed** and as **not** being **based upon common knowledge**. Applicants hereby expressly declare that they do **not** admit to the subjects of these "Official Notices" being within the prior art. Applicants further demand that the next Office Action produce authority to support these "Official Notices" if they are maintained.

CONCLUSION

Claims 50-51 are new claims that comprise features that are not disclosed in the cited references.

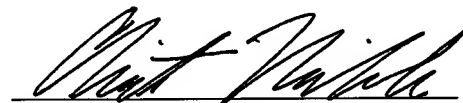
For the reasons set forth above, it is respectfully submitted that all of the pending claims are now in condition for allowance. Therefore, the issuance of a formal Notice of Allowance is believed next in order, and that action is most earnestly solicited.

The Examiner is respectfully requested to contact the undersigned by telephone if it is believed that such contact would further the examination of the present application.

Please charge any shortages or credit any overages to Deposit Account No. 50-1302.

Respectfully submitted,

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on 3/14/06 by Judy Paradise